IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO: 9913 of 2005

Between:

1) T.Krishna Reddy S/o Konda Reddy Occ: Sarpanch

R/o 3/40, Patha Kadapa Gram Panchayat, Kadapa District

2) M.Aruna Kumari W/o Siva Reddy, Occ: 2nd ward member

R/o 1/103, Patha Kadapa Gram Panchayat, Kadapa Dist.

3) D.Prathap Reddy S/o Subba Reddy , 4th Ward Member,

R/o 5/44, Patha Kadapa Gram Panchayat, Kadapa District

4) Y.Rajeswari W/o Subba Rayudu, 5th Ward Member,

R/o Patha Kadapa Gram Panchayat, Kadapa District

5) P.Yohana S/o Anandayya, 6th Ward Member

R/o Patha Kadapa Gram Panchayat, Kadapa District

6) G.Bhagya Lakshmi D/o Vemanna, 7th Ward Member

R/o Patha Kadapa Gram Panchayat, Kadapa District

7) N.Alluramma W/o Subba Rayudu, 8th Ward Member

R/o Patha Kadapa Gram Panchayat, Kadapa District

8) B.Prasada Rao S/o Gangadhar, 10th Ward Member

R/o Patha Kadapa Gram Panchayat, Kadapa District

9) M.Subba Rayudu S/o Suseelaiah, 12th Ward Member

Patha Kadapa Gram Panchayat, Kadapa District

10)J.Kondamma W/o Venkataiah, 13th Ward Member,

Patha Kadapa Gram Panchayat, Kadapa District

11)K.Nithya Rajaiah S/o Nadipeyya, 14th Ward Member

R/o Patha Kadapa Gram Panchayat, Kadapa District

12)P.Venkata Laxmamma W/o P.V.Subba Reddy

R/o 5/142, R.V.Nagar, Chemmumiahpet, Kadapa

District.

13)Samson Begum W/o Ghouse, Ward Member

R/o 6/56, R.V.Nagar, Kadapa

14)V.Subba Rayudu S/o Obaiah, R/o 7/114, H.Ward

R.V.Nagar, Kadapa

15)S.Parvathamma W/o S.Mallikarjuna Rao

R/o 8/450, R.V.Nagar Kadapa

16)B.Laxmi Kumari W/o Krishna Murthy, R/o 8/61,

R.V.Nagar, Kadapa

17)K.Laxmi Devi D/o Narasimhulu, R/o 10/233, Nabikota,

Kadapa District.

18)J.Nageswaramma W/o Narayana Swamy, R/o 11/523,

Nabikota, Kadapa.

19)Pesala Krishna Rao S/o Narayana Rao, R/o 11/228,

Balaji Nagar, Kadapa

20)B.Varalaxmi Devi W/o Srinivasulu Reddy, R/o 2/213

Balaji Nagar, Kadapa

21)G.Subramanyam S/o Pitchaiah, R/o 2/289, Balaji Nagar,

Kadapa District.

22)N.Ramajaneyulu Reddy S/o Anki Reddy, R/o 1/128-1,

Chemmumaiahpeta, Kadapa District.

23)S.Jakir Hussain S/o Sheik Hussain R/o Kadapa District

24)B.Subramanyam S/o Subbanna, R/o 4/415,R.V.Nagar

Kadapa District

25)P.Viswanadha Reddy S/o Veera Subba Reddy, R/o 12/22,

Peda Chetapalli, Kadapa District

26)S.Moula S/o Bhimulu, R/o 7/295, R.V.Nagar, Kadapa

District.

27)S.Mashaka Hussain R/o R.V.Nagar, Kadapa District

28)M.Rama Lakshmana Reddy S/o Papi Reddy, Upa Sarpanch

Chinnachowk Gram Panchayat, R/o 4/550, Arvind Nagar,

Kadapa District

29)M.Mallikarjuna S/o Rama Swamy, R/o 7/201-10C,

N.G.Os Colony, Kadapa District.

30)G.Venkata Ramana S/o Subba Rayudu, R/o 6/50-1,

Sankarapuram, Kadapa District.

31)M.Subba Lakshamma W/o Subbarayudu, R/o 1/221-6,

Chinnachowk, Kadapa District.

32)K.Malleswaramma W/o Sesharayudu, R/o Kondayapalli,

chinnachowk, Kadapa District.

33)R.Bala Nagamma W/o Venkata Ramana, R/o 2/925,

Nehru Nagar, Kadapa District.

34)G.Sreelatha W/o Prasad, R/o 2/652-3, Nehru Nagar,

Kadapa District.

35)M.Narayanam W/o Subbaiah, R/o 6/844, Sankarapuram,

Kadapa District

36)M.Baby W/o George, R/o 3/45-1, Buddayapalli, Kadapa

District.

37)M.Jayaramudu S/o Sreeramulu, R/o 4/182, Pakkarapalli,

Kadapa District

38)P.Laxmi Reddy S/o P.Rama Subba Reddy, R/o 4/165,

Pakkarapalli, Kadapa District.

39)K.Babu S/o Obanna, R/o 8/13-1, Prakashnagar

Kadapa District.

40)B.Balayya S/o Anjaneyulu R/o 7/894, M.J.Kunta,

Kadapa District.

41)M.Ganganna S/o Peda Ganganna, R/o 1/391,

Ashoknagar, Kadapa District.

42)G.Lakshmi Devi W/o Munaiah, R/o 7/942, M.J.Kunta,

Kadapa District

43)G.Gangadharam S/o Komlaiah, R/o 6/674-2, Kadapa

District.

44)T.Muralinaidu S/o Narasimhulu Naidu, R/o 6/1433,

Sankarapuram, Kadapa District.

.... PETITIONERS

AND

1 The Government of Andhra Pradesh, rep. by its Secretary,

Department of Municipal Administration & Urban Development, Secretariat Buildings, Hyderabad.

2 The Commissioner, Municipal Administration,

Secretariat Buildings, Hyderabad

3 The District Collector, Kadapa

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or writ one in the nature of writ of Mandamus declaring G.O.Ms.No.125, M.A. Municipal Administration and Urban Development (Elec.II) Department, dt.17.03.2005 and all consequential proceedings as arbitrary, illegal, unjust, contrary to law and in violation of the fundamental rights guaranteed under Article 14 of the Constitution of India and in violation of principles of natural justice and also contrary to Articles 243 E, 243 F and 243 G of the Constitution of India apart from being contrary to Section 3(a) of the A.P. Municipalities Act, if necessary, read down Section 3 of the A.P.Municipal Corporations Act in consonance with the provisions of Part IX of the Constitution of India and A.P.Panchayat Raj Act and issue consequential direction to the respondents not to proceed with the upgradation of Kadapa Municipality into Kadapa Municipal Corporation.

Counsel for the Petitioner: Smt.N.Shoba

Counsel for the Respondents: Advocate General &

G.P for Municipal

Administration & Urban

Development

The Court at the admission stage, made the following:

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ORDER:

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This Writ Petition is filed, questioning G.O.Ms.No. 125, Municipal Administration and Urban Development (Elec.II) Department, dated 17-3-2005, including certain Gram Panchayats in Kadapa District in the Municipal Corporation of Kadapa.

The above said G.O. Ms.No. 125, Municipal Administration and Urban Development (Elec.II) Department, dated 17-3-2005 is issued by the first respondent-Government, in exercise of powers under Section 3(2) of the A.P. Municipal Corporations Act, 1994, in altering the limits of urban area of Municipal Corporation of Kadapa, by including areas of erstwhile Gram Panchayats, namely, Patha Cuddapah Gram Panchayat, Akkayapalli Panchayat, Chemmumiahpeta Panchayat, Chinna Chowk Gram Panchayat and Gudur Gram Panchayat. The petitioners, who were the Sarpanches and ward members of the erstwhile Gram Panchayats, questioned the impugned G.O. mainly on the ground that they were elected in the elections held on 24-3-2002 for a term of five years; as such, before their term has come to an end, no orders can be passed to merge the Gram Panchayats, in the corporation limits. Further, it is their case that most of the residents of Gram Panchayats are agriculturists, and, if the said Gram Panchayats are included in the Corporation limits, they will be compelled to pay higher taxes than the charges payable to the Gram Panchayats. It is stated, if the Gram Panchayats itself are providing all amenities, and, in that view of the matter, there is no need to include these villages in the Municipal Corporation of Kadapa.

Smt N.Shoba, the learned Counsel appearing for the petitioners submits that in view of the constitutional provision under Article 243-E of the Constitution of India, the petitioners are entitle to continue for a period of five years, and, before expiry of the said period, the Government cannot notify to include these villages in the limits of Municipal Corporation of Kadapa.

On the other hand, it is submitted by the learned Advocate General, appearing for the State, that the very Gram Panchayats were de-notified by G.O.Ms.No. 72, dated 17-3-2005; in that view of the matter, the petitioners cannot seek to continue their term for the panchayats. Further, it is submitted, in any event, they have no right as such, for continuation in the elected post for the period of five years. It is submitted that as the area covered by the Gram Panchayats, is around the Corporation limits, for better administration, the impugned orders have been issued including areas of the Gram Panchayats by altering the limits of Municipal Corporation of Kadapa.

Article 243-E of the Constitution of India provides the period for duration of panchayats. As per the said provision, every panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date, appointed for its first meeting. The constitution of panchayat arises, provided there is validity notified gram panchayat. The said power for duration of panchayats is subject to the power of the Government to de-notify the gram panchayats itself, for any other valid reasons. In the instant case, the very gram panchayats were de-notified by G.O.Ms.No. 72, dated 17-3-2005, and, in view of the same, no gram panchayat exists, so as to continue for the left over term in the constituted Panchayat for the period of five years as alleged by the petitioners. Term guaranteed under Article 243-E is subject to continuation of the Gram panchayat, but not otherwise. When the very gram panchayats are de-notified and cancelled, to fill up the gap, the impugned notification has been issued, including the area covered by erstwhile gram panchayats in the larger urban area of the Municipal Corporation of Kadapa. As pleaded by the learned Counsel for the petitioners, that taxes will go up, and, erstwhile gram panchayats were providing better amenities, are not the grounds to test the validity of the impugned notification. It is for the competent authority under the A.P.Municipal Corporations, Act, 1994 to decide whether inclusion of area of erstwhile gram panchayats into municipality is feasible and practicable, for better administration of Corporation in the larger interest.

For the foregoing reasons, I do not see any merit in this Writ Petition and, the same is accordingly dismissed. No order as to costs.

28th April, 2005.

RAR/Msnr.

To

1 The Secretary, Department of Municipal Administration &

Urban Development, Government of Andhra Pradesh

Secretariat Buildings, Hyderabad.

2 The Commissioner, Municipal Administration,

Secretariat Buildings, Hyderabad

3 The District Collector, Kadapa

4 2 CCs to G.P for Municipal Administration & Urban

Development, High Court Bldgs, Hyderabad (OUT)

5 2 CD copies.